

FINAL STATEMENT OF REASONS

Title 7. Harbors and Navigation
Division 2. State Board of Pilot Commissioners for the
Bays of San Francisco, San Pablo, and Suisun
Article 4. Training Programs

UPDATE OF INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons is hereby incorporated by reference, supplemented by the additional matters set forth below in this Final Statement of Reasons under the heading entitled, “REVISIONS TO PROPOSED REGULATIONS - SECTION BY SECTION.” The overall purpose and rationale of the proposed amendments remain unchanged from that set forth in the Initial Statement of Reasons. There have, however, been changes to the original proposal—some to correct oversights, some to correct ambiguities or inconsistencies in language, some to standardize terminology, some to remove unintended impediments to achievement of the purpose of the changes, and, most importantly, some to ease the transition to the new requirements for those potential applicants who may have relied to their detriment on the existing standards for admission to the pilot training program.

The Initial Statement of Reasons contains two typographical errors, which are corrected here. The last sentence on page 2 should read: “Tows with a combined tonnage of not less than 1600 gross tons would still qualify, even if the towing tug was less than 99 gross tons.” The first sentence of the second paragraph on page 4 should read: “The reduction from two years to one year of experience as master will not negatively affect the quality of applicants with deep-sea experience.”

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Board has determined that the adoption of the regulations will not impose a mandate on local agencies or school districts.

RECOMMENDATIONS REGARDING REGULATIONS AND RESPONSES

COMMENT LETTERS

The 45-day comment period ended on December 6, 2013.

The Board received twelve letters commenting on the proposed amendments. They are summarized below.

1. October 4, 2013 letter from Dale Settlemeyer. Mr. Settlemeyer stated that, in preparation for past examinations, tugboat captains have typically waited to get their 1600-gross-ton license from the Coast Guard until shortly before the application date for admission into the pilot training program. Because the proposed change in the regulations would require tug captains to acquire

their two years' experience as master while holding a 1600-ton license, that will mean that many tug captains who could have gotten their 1600-ton license earlier but delayed on the assumption that they could defer acquiring the license until shortly before the application date will be denied the opportunity to apply for the upcoming examination in 2014. He asked for "a fair solution to get these guys in for the exam."

Response: In response to this and similar comments (see below), the proposed amendment to Section 213(e), which alters the minimum eligibility requirements for admission to the training program, has been modified to allow a third means of establishing eligibility, consisting of the experience requirement as tug master that is set forth in existing subsection (e)(3)(B) of Section 213. This "grandfather" provision, which is set forth in new proposed subsection (e)(3)(C), will be in effect only for applications submitted on or before the application cut-off date for the 2014 examination and applicable only to the 2014 examination. By its terms, subsection (e)(3)(C) will expire upon the Board's acceptance of the eligibility list resulting from an examination administered under Section 213 in 2014.

2. November 12, 2013 letter from Michael Balash. Mr. Balash requested a public hearing and commented that "some [tugboat captains] . . . will be left out of the next exam if these regulations go through without a chance for them to adhere within a reasonable timeframe."

Response: See response to Settlemeyer letter, No. 1 above.

3. November 12, 2013 letter from Donald Anderson. Mr. Anderson objected to the lack of adequate notice to tugboat captains who planned to apply for the upcoming examination. He objected not only to the proposed change in minimum eligibility requirements for tug captains under subsection (e)(3)(B) (see Settlemeyer and Balash letters, Nos. 2 & 3 above), but also to the proposed alterations of the experience-point criteria for tug captains that are contained in existing subsection (f)(1)(A)–(D). He noted the lack of "any type of grandfathering and/or transitional provisions" in the proposed amendments. He asked that the Board "either delay this amendment to Section 213(e)(3)(B) & (f)(1)(A,B,C,D) until after the 2014 exam, or grandfather the command time accumulated under the current requirements up to this amendment taking effect."

Response: See response to Settlemeyer letter, No. 1 above. In addition, in response to Mr. Anderson's objection to alteration of the experience-point criteria set forth in existing subsection (f)(1)(A–D), applicants will be given the option of choosing instead to have their experience evaluated using the criteria set forth in existing subsection (f)(1). This "grandfather" provision, which is set forth in new proposed subsection (f)(1)(E), will be in effect only for applications submitted on or before the application cut-off date for the 2014 examination and applicable only to the 2014 examination. By its terms, subsection (f)(1)(E) will expire upon the Board's acceptance of the eligibility list resulting from an examination administered under Section 213 in 2014.

4. November 18, 2013 letter from Bremen Schmeltz. Mr. Schmeltz raised the same two concerns that Mr. Anderson raised in his letter.

Response: See response Nos. 1 and 3 above.

5. November 18, 2013 letter from Robert Sanderson. Mr. Sanderson raised the same concern mentioned in letters 1 and 2 above.

Response: See response No. 1 above.

6. November 20, 2013 letter from Eric Kord. Mr. Kord raised the same two concerns that were raised in letters 3 and 4 above. He stated that the proposed modifications of the minimum requirements were “completely reasonable,” but asked for “a delay of these proposed regulations until after the 2014 exam.”

Response: See response Nos. 1 and 3 above.

7. November 27, 2013 letter from Melinda C. Erkelens. Ms. Erkelens raised the same two concerns that were raised in letters 3, 4, and 6 above. She stated that “while this increase [in minimum eligibility requirements] appears reasonable in the long term (based on the rationale in the Commission’s *Initial Statement of Reasons* . . .), if the changes are implemented prior to the 2014 Pilot Exam, it will not provide the opportunity for mariners or tug operators to adhere to the proposed regulations and still qualify for the 2014 Pilot Exam.”

Response: See response Nos. 1 and 3 above.

8. December 2, 2013 letter from Captain Kyle J. Hamill. Captain Hamill expressed his support for changing the minimum eligibility requirement for deep-sea mariners from two years to one year as master. He stated that he had sailed deep sea continuously from his graduation from the California Maritime Academy in 1997 and sailed as a master for the first time in 2010—at age 36 and only the second of his graduating class to do so. He explained the scarcity of positions on U.S.-flagged vessels and that, due to scheduling, even with continuous employment as master it takes four years of sailing to acquire two years of experience as master. He also noted the economic difficulty that older deep-sea masters face in leaving their well-paid positions to try and make ends meet on the pilot trainee allowance received during pilot training, which lasts one to three years.

Response: This response validates the Board’s rationale for reducing by one year the required experience as master for deep-sea captains.

9. December 2, 2013 letter from Anne M. Fulton, Pharm.D. Dr. Fulton raised the following concerns:

a. The letter states that it is not necessary to lower the minimum eligibility requirement for deep-sea captains by one year so as to encourage more applications from deep-sea captains; tug captains also face an economic burden while in training. She states that “the desire to potentially allow less qualified applicants into the program due to a misconceived notion of economic disadvantage angers me and destroys my confidence in the Commission in being able to properly identify, train, and license Pilots.”

Response: While it is true that tug captains also take a pay cut to enter the training program, the pay cuts suffered by deep-sea captains are greater in amount. Further, these pay cuts are incurred

at an older age, when associated sacrifices and burdens such as lost or reduced pension rights, mortgage obligations, and educational expenses for children are greater. Concerning the assertion that deep-sea captains with one year's experience as master are less qualified, deep-sea masters will still have more years of maritime experience than the average tug-captain applicant, even with the change in the minimum eligibility requirement, and will have many years of actual experience in conning large vessels, which is what pilots do. As stated in the Initial Statement of Reasons:

Oceangoing vessels are continuously underway, and as a result, deck officers other than the master all stand navigational watches, from chief mate through third mate. The officers acquire ship-handling skills for these large vessels long before they become masters. Further, given the years-long progression up through the deck-officer grades to master, deep-sea mariners reach an age and a level of "seasoning" that enhances their desirability as applicants.

The Board of Pilot Commissioners remains of the view that reduction of the required time as deep-sea master by one year will enhance the number and quality of its trainee applicants for the reasons set forth in the Initial Statement of Reasons and the Notice of Proposed Rulemaking.

b. The letter states that "The decision to reduce the experience to 1 year for only the ship captain applicant pool is against the intent of the qualifications in order to assess ability to perform as a pilot, creates discriminatory qualifying criteria and is insulting to the work and skill of the tugboat captains."

Response: The Board of Pilot Commissioners places a high value on the different skills and backgrounds that the members of its two applicant pools—tug captains and deep-sea captains—bring to the pilot training program. The Board believes that enrolling significant numbers of both groups in its pilot training program enhances both the quality of the training experience and the quality of the pilots that the Board ultimately licenses. The Board remains of the view that reduction of the required time as deep-sea master by one year will enhance the number and quality of its trainee applicants for the reasons set forth in the Initial Statement of Reasons and the Notice of Proposed Rulemaking.

c. The letter states that tug captains are allowed to work 12 hours a day, while deep-sea captains are limited to 8-hour days; that a tug captain's day is therefore worth more in experience than a deep-sea captain's day; and that measurement of experience in terms of "days" worked rather than hours worked is therefore discriminatory.

Response: For purposes of calculating the eligibility and experience points of applicants to the training program, Section 213(g) of the Board's regulations defines the word "year" as follows:

(g) For purposes of meeting the minimum eligibility requirements of subsection (e) herein and the assessment of experience points in subsection (f) herein, a "year" means a minimum of 360 days performing the duties of master or pilot.

"Day" has a plain meaning. It is "the 24-hour period during which the earth completes one rotation on its axis." (American Heritage Dict. (1969) p. 338.) The Board has always defined a year simply in terms of "days." Dr. Fulton argues that the Board should take into account the

hours worked during a day, and that the Board discriminates when it gives equal credit to deep-sea captains for a day worked, even though, she asserts, tug captains work longer hours. The word “day” does not denote any number of hours other than 24. It might be within the Board’s authority to refine and adjust the accepted meaning of “day” so as to recognize that different workers may work differing numbers of hours, but the Board has not done so. This argument about differing hours may be based on a specialized definition of “day” that is not contained in the Board’s regulations. A specialized definition of “day” appears in a federal regulation (46 C.F.R. § 10.107(b)) that governs service time for raises in grade for ship’s officers. That regulation defines a “day” as eight hours, and allows service credit for subordinate ship’s officers of one-and-one-half days for a 12-hour work day. In contrast, the Board’s regulations define a “year” as 360 days, but do not go further and give to the word “day” the specialized meaning contained in the federal regulation. Absent such a specialized definition, “day” retains its ordinary meaning.

Further, an important distinction between “day” in the Board’s regulation and “day” in the federal regulation is that the one year of experience required in proposed Section 213(e)(3) is command experience as master. A master in command of a deep-draft, ocean-going vessel—as distinct from subordinate ship’s officers—is responsible “24-7” for the operation of the vessel, and, using Dr. Fulton’s reasoning, could argue for 24 hours of credit for a single calendar day. Rather than permit credit for more than one day of service by virtue of a single calendar day of work, the Board’s regulations use the word in its ordinary sense, without further refinement. There is no discrimination here against tug captains.

d. The letter states that the majority of tug-captain applicants are local, “working alongside the pilots with ship assist work,” and that “it baffles me that the Board of Pilot Commissioners is aiming to devalue that practical experience.”

Response: To create a large applicant pool and thereby obtain trainees of the highest quality, the Board does not require that the experience necessary to satisfy the minimum eligibility requirements be obtained in San Francisco Bay. It instead relies on its one-to-three-year training program to impart local knowledge.

e. The letter states that the new experience categories in proposed subsection (f) will actually decrease, rather than increase, the number of applicants. This is so because many potential applicants who satisfy the subsection (e) requirements will nonetheless find it difficult or impossible to acquire the number of experience points necessary to take the exam. In effect, this will raise rather than lower the minimum eligibility requirements of subsection (e).

Response: This point is well taken. Through inadvertence, the proposed amendments left unaltered the current provisions of subsections (h) and (j)(1). As a precondition to taking the written examination and participating in the bridge simulator exercise, these subsections require a minimum of 15 experience points under subsection (f). Because under the proposal subsection (f) will no longer allow experience used to qualify under subsection (e) to be used to acquire experience points under subsection (f), that will result in many potential applicants not being able to take the written examination. If left unchanged, this precondition would seriously inhibit the goal of increasing the applicant pool. Accordingly, the proposal has been altered to remove any experience-point requirement as a precondition to taking the written examination. Experience

points will continue to contribute to an applicant's combined score, which determines selection for entry into the training program.

f. The letter states that the new experience-point criteria in subsection (f) would discriminate against tug captains in favor of deep-sea captains.

Response: As before, both tug and deep-sea candidates will be eligible for the same total number of experience points: 35 (formerly 30). There have been two changes, one favoring tug captains, the other favoring deep-sea captains. Tug captains will now receive 15 points for piloting "own vessels," whereas deep-sea captains will receive 10 points. (See subsections (f)(1)(D) & (f)(2)(E).) On the other hand, deep-sea captains will receive 5 points for a new category: 0.5 years as master of self-propelled vessels of not less than 1600 gross tons. (See subsection (f)(2)(B).) Further, the required years for different categories of experience have been revised downward for both groups from what was proposed in October. This was done to reflect the change whereby subsection (e) experience cannot now be used to receive experience points under subsection (f).

g. The letter states that the uncertainty concerning the effective date of the new regulations in relation to the application cut-off date will prejudice those who have inadequate time to acquire and document the new minimum eligibility requirements and the new experience that is provided for in the proposed amendments and will result in a smaller applicant pool. Similar concerns were raised in letters 3, 4, 6, and 7 above.

Response: See response Nos. 1 and 3 above.

h. The letter requests that the proposed amendments be "tabled" until after the next testing cycle. Dr. Fulton proposes a study of the results and performance of admittees to the program from the 2010 examination as well as a similar study of the upcoming 2014 examination. This proposed study would involve allowing those who are now ineligible to nonetheless take the examination on an "audit" basis if they would qualify under the proposed new regulations. Rather than try to explain the proposal further, perhaps it is best to quote from page 4 of the letter:

I suggest that the board utilize this testing cycle as a study to compare the relative competitiveness of the applicants against the proposed changes and the ultimate placement on the eligibility list. This could be achieved by sending a questionnaire out to each applicant to determine eligibility based upon the proposed changes and carried through the written and simulator test. Additionally, the board could review the pilots accepted through the last applicant cycle to determine their background, individual scores on the written and simulator test, as well as their performance in training to determine how the proposed regulations would have affected the applicant pool and the training program. Further, any applicant who would have been accepted as a result of these proposed changes, but not currently, to participate in the written exam, could be invited to participate in the written exam, in an audit capacity only, to further the depth of this study.

Response: This proposal is not clearly expressed, and it is therefore hard to understand how it would work. It is clear, however, that it would be complex, cumbersome, and expensive. It would also pose a threat to the security of the written examination and the bridge simulator exercise by

the “auditors,” who would be less inclined to maintain exam security than those actually competing for a position on the eligibility list. The possible implication of Dr. Fulton’s letter that the proposed changes were not well-thought-out is inaccurate. The proposed changes resulted from a thorough exchange of views over several years among members of the San Francisco Bar Pilots from both tug and deep-sea backgrounds. Moreover, the newly proposed grandfather provisions for eligibility and experience provide a more straightforward course to the side-by-side comparison that this proposal apparently seeks.

10. December 3, 2013 letter from Captain Colin P. Vogler. Captain Vogler proposed that the minimum eligibility requirements be amended to include chief mates who have sailed the Alaska Marine Highway System while holding an inland master’s license for unlimited tonnage.

Response: The Board has always insisted, and continues to require, that applicants for the training program must have experience as master, whether on tugs or deep-sea vessels. The Board continues to believe that there is a significant difference between serving as a subordinate ship’s officer who can always turn to the master for advice and assistance, and serving instead as master, who is the one person who is wholly responsible for the vessel, its crew, and its cargo. The Board continues to believe that this distinction is an important one and that time as master—rather than as a subordinate ship’s officer—contributes substantially to the quality of its trainees and of the pilots that it ultimately licenses.

11. December 4, 2013 letter from Peter McIsaac, Port Agent. Captain McIsaac raised the following concerns:

a. Whether the new prohibition against using experience under subsection (e) to gain experience points under subsection (f) applies to experience under subsections (f)(1)(B) and (C) and (f)(2)(B) through (D). On the assumption that it does, Captain McIsaac proposed a reduction of the required time periods as master in the various experience categories for tug and deep-sea captains to compensate for the fact that subsection (e) experience could no longer be used to gain experience points under subsection (f).

Response: The intent is to have the prohibition apply to all categories of experience under subsections (f)(1)(A) through (D), (f)(2)(A) through (E), and (f)(3)(A) and (B), but the current language is ambiguous. For this reason, subsection (f) has been amended to accurately and unambiguously express this intent. The experience periods for the respective categories of experience for both tug and deep-sea captains have also been reduced.

b. Without deleting the requirement of subsections (h) and (j) that an applicant have at least 15 experience points to take the written examination and be placed on the eligibility list, some applicants who now will meet the minimum eligibility requirements of subsection (e) will nonetheless be prevented from taking the written examination. This would decrease, rather than increase, the size of the applicant pool, contrary to what the changes are designed to do.

Response: The point is well-taken. Accordingly, the 15-point experience requirement has been deleted from subsections (h) and (j)(1).

c. Why are not discharge certificates a permissible means of verifying experience under subsection (f), as they are under subsection (e)?

Response: This omission was inadvertent. Discharge certificates have been added as a means of verifying experience under subsection (f).

d. Acquisition of tug experience under subsections (f)(1)(A) and (D) should not be limited to holders of a master's license for vessels of "not more than 1600 gross tons," but should also give such experience credit to holders of higher master's licenses, for example, master's licenses for "any gross tons."

Response: There is no intent to prevent this experience from being acquired by masters holding a higher license. Accordingly, the language has been changed to say that, "at minimum," an applicant must have held a license for vessels of not more than 1600 gross tons while acquiring this experience. Similar language is already contained in subsection (e)(3)(B), concerning experience used to meet the minimum eligibility requirements.

e. Experience under subsections (f)(1)(A) and (D) must be obtained while holding a 1600-ton license. Was the omission of this "while holding" requirement from subsections (f)(1)(B) and (C) an oversight?

Response: Yes. The "while holding" requirement was intended to apply to all four categories of experience, (f)(A) through (D). The omission was inadvertent.

12. December 6, 2013 e-mail from Drue Kasper. Mr. Kasper asked that tug experience under subsection (f)(1)(D) (piloting own vessels of not less than 1600 gross tons, combined tug and tow) be altered to remove the requirement that the applicant must have held, while piloting, a pilotage endorsement. His reasoning was that tug masters engaged in such tows do not require a pilot endorsement.

Response: This is true, but the rationale for the requirement is to equalize the opportunity to gain experience as between tug captains and deep-sea captains. Deep-sea masters *do* need a pilot endorsement from the U.S. Coast Guard if they wish to themselves pilot enrolled vessels engaged in the coastwise trade and transiting pilotage waters.

PUBLIC HEARING

In response to a timely request, a public hearing on the proposed amendments to Section 213 of the Board's regulations was held in San Francisco at the Board's office on December 6, 2013. Four persons spoke at the hearing.

1. Anne Fulton, Pharm.D. Dr. Fulton reiterated the points made in her letter of December 2, 2013.

Response: See No. 9 above under ***COMMENT LETTERS***, together with the responses.

2. Kevin Freese. Captain Freese is a tugboat captain. He stated that, had he known after the last examination that tug captains had to acquire experience while holding a 1600-ton license, he could have complied. As it is, he lacks the experience “while holding” to qualify to take the written examination.

Response: Addition of the grandfather provisions in both subsection (e) and subsection (f) responds to this concern.

3. Leigh McNamara. Captain McNamara is a tugboat captain. He stated that he liked reducing the towing experience requirement for the combined gross tonnage of the tug and vessels towed if the tug was not less than 99 gross tons. He also expressed his opinion that tug experience in pilotage waters was more useful than a deep-sea master’s experience steering a compass course on the open ocean.

Response: For the reasons stated in the response to No. 9b above under *COMMENT LETTERS*, the Board believes that, regarding the experience of the members of the two applicant pools, tug masters and deep-sea masters, one background is not superior to the other. They are just different, and each type of experience brings with it its own strengths.

4. Raymond Paetzold. Mr. Paetzold is the General Counsel of the San Francisco Bar Pilots. He reiterated the questions and concerns presented in Captain Peter McIsaac’s December 4, 2013 letter to the Board.

Response: See No. 11 above under *COMMENT LETTERS*, together with the responses.

Mr. Paetzold also submitted, for comparison purposes, copies of U.S. Coast Guard requirements for issuance of master’s endorsements on towing vessels and self-propelled vessels of various sizes and on various waters, together with the various prescribed periods of service time necessary to acquire each endorsement.

ADDITIONAL 15-DAY COMMENT PERIOD

CHANGES IN REGULATION AMENDMENTS FROM THOSE ORIGINALLY PROPOSED

In response to comments made within the 45-day comment period and at the public hearing, the Board at its December 12, 2013 meeting approved changes to the regulation amendments originally proposed in October 2013 that are sufficiently related to the original text. Changes to the text as originally proposed were indicated by double strikeovers for deletions and double underlining for additions. The Board’s approval was conditional upon no additional objections or recommendations being received within the additional 15-day comment period.

On December 16, 2013, the Board gave notice that the proposed regulation had been modified and that any comments should be submitted by 5:00 p.m. on December 31, 2013. No comments, objections, or recommendations were received in response to this notice.

REVISIONS TO PROPOSED REGULATIONS - SECTION BY SECTION

The changes that were made following the comment period and the public hearing are detailed above in the section entitled, “RECOMMENDATIONS REGARDING REGULATIONS AND RESPONSES.” Those changes are broken down by section and subsection and summarized here.

Subsection (e) of Section 213

The existing regulation allows tugboat applicants to acquire their master’s license for vessels of not more than 1600 gross tons shortly before applying for admission to the training program, whereas the new regulation would require that two years’ of experience as a tug master be acquired “while holding” the 1600-ton license. Some potential applicants with tugboat experience may have relied to their detriment on the existing regulation, with the result that they are not eligible because they did not hold the 1600-ton license for a full two-year period as master. The Board altered the proposed regulation by adding a “grandfather” provision, subsection (e)(3)(C), whereby tug masters can qualify under existing subsection (e)(3)(B), which does not contain the new “while holding” requirement. The grandfather provision will terminate upon the Board’s acceptance of the eligibility list resulting from the 2014 examination.

Subsection (f) of Section 213

The introductory paragraph of subsection (f) was modified in the following ways: The word “eligibility” was inserted in line 1 to conform with terminology in the rest of the regulation. (Where necessary in other portions of Section 213, this same standardization change was made.) Also, the word “supporting” was stricken as surplusage. Regarding declarations, it was made clear that, except where certificates of discharge were used, not only the applicant but also third persons verifying experience would be required to do so by declaration. Finally, to maintain consistency with the new grandfather provisions in subsections (e) and (f), an exception for applicants availing themselves of the grandfather provision was created to the new provision that experience used to meet the minimum eligibility requirements of subsection (e) could not be used to acquire experience points under subsection (f).

Point count with respect to tugboat experience

To correct an oversight, proposed subsections (f)(1)(A)-(D) were amended to include the “while holding” requirement regarding all four types of experience. Related changes to achieve parallel structure were made.

In recognition of the new provision that experience used to meet the subsection (e) requirements could not be used for acquiring experience points under subsection (f), the required years of experience under the types of service listed in subsections (f)(1)(B) and (C) were adjusted downward by two years.

Concerning subsection (f)(1)(D), the words “at minimum” were inserted in the first line to make clear that the referenced experience could be acquired while holding a higher level of master’s license than the 1600-ton license (that is, the “any gross tons” master’s license). In addition, the language was made clearer that qualifying pilotage had to have been obtained while holding the required pilot endorsement.

Subsection (f)(1)(E) was added, offering applicants the alternative of using the existing experience-point schedule to acquire experience points, again on the rationale that potential applicants may have relied on the old schedule in preparing to apply for the examination. The grandfather provision will terminate upon the Board’s acceptance of the eligibility list resulting from the 2014 examination.

Point count with respect to deep-draft experience

To correct the intended alleviation for the loss of the ability to apply subsection (e) experience toward subsection (f) experience points, certain downward adjustments regarding length of experience were made in subsections (f)(2)(B), (C), and (D). The remaining changes to these subsections were made to correct and conform style.

In addition to nonsubstantive stylistic changes in subsection (f)(2)(E), the language was made clearer that qualifying pilotage had to have been obtained while holding the required pilot endorsement.

Subsection (f)(2)(F) was added, offering applicants the alternative of using the existing experience-point schedule to acquire experience points, again on the rationale that potential applicants may have relied on the old schedule in preparing to apply for the examination. The grandfather provision will terminate upon the Board’s acceptance of the eligibility list resulting from the 2014 examination.

Point count with respect to piloting experience

Subsection (f)(3)(C) was added, offering applicants the alternative of using the existing experience-point schedule to acquire experience points, again on the rationale that potential applicants may have relied on the old schedule in preparing to apply for the examination. The grandfather provision will terminate upon the Board’s acceptance of the eligibility list resulting from the 2014 examination. For applicants choosing the old experience point schedule, the old maximum point total of 40 is left in place, as opposed to the new 20-point limit for piloting experience.

Removal of 15-point experience requirement to take exam and be placed on list

From comments received during the 45-day comment period and at the public hearing, it was clear that the existing requirement that applicants have at least 15 experience points both to take the examination and to be placed on the eligibility list (see Cal. Code Regs., tit. 7, § 213(h), (j)(1)) would work against the principal purpose of the proposed amendments to the regulation: to expand and enhance the quality of the applicant pool. Because the new regulation will bar use of subsection (e) minimum-qualifications experience to acquire experience points under subsection

(f), many of the new, sought-after applicants that are the object of the changes would still not qualify for admission to the pilot training program. Accordingly, the Board eliminated this 15-point requirement from both subsections (h) and (j)(1) of Section 213.

DETERMINATION CONCERNING ALTERNATIVES

The Board concluded that revised minimum eligibility requirements and revised criteria for awarding experience points were necessary to improve the number and quality of the applicants to its pilot training program. In the Board's judgment, the amendments to Section 213 of its regulations accomplish that goal. The Board did not consider other alternatives to the proposed regulations prior to noticing the proposed rulemaking.

In its Notice of Proposed Rulemaking, the Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. No such statements or arguments were received, nor were any such statements offered by those who appeared at the public hearing that was held on December 6, 2013.

ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The Board has previously determined that the regulations will have no adverse economic impact on small businesses. (Notice of Proposed Rulemaking, p. 4; Initial Statement of Reasons, pp. 9–10.) Accordingly, there was no need to consider proposed alternatives on this ground.